

INDUSTRIAL STORMWATER PERMIT ADVISORY COMMITTEE
Meeting Notes
February 15, 2006

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**ADVISORY COMMITTEE MEMBERS IN ATTENDANCE:** Steve Bloomfield, Sue Joerger, Bruce Wulkan, Ken Johnson, Marilyn Guthrie, Dave Reeves, Mike Rhubright, Jeff Davis, Brent Foster, David Like, Steve Britsch, Susanne McLiveen, Jessica Shaw, Rick Eichstaedt, Gary Smith.  
**DEPARTMENT OF ECOLOGY STAFF AT THE TABLE:** Nancy Winters, Jim LaSpina.  
**FACILITATOR:** Sue Dicile  
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Key

Unless otherwise noted:

"Q" = a Committee member question.

"A" = an answer contributed by Ecology staff.

"C" = a Committee member comment.

INTRODUCTION

The meeting convened at 1:05 pm.

Nancy Winters and Jim La Spina welcomed committee members, and overviewed the purpose of the meeting: to identify sections of the Industrial Stormwater General Permit draft that raise significant concerns, or create difficulties in implementation, and to hear suggestions for alternatives.

Introductions were conducted, and the agenda and ground rules overviewed.

HISTORY OF THE INDUSTRIAL STORMWATER PERMIT

Bill Moore provided a summary of the history of the permit. *An outline of that summary is included in the handout distributed at the meeting. Please see the handout for details of the presentation.*

Subsequent to the presentation, Committee members asked the following questions:

Q: What has been learned from the data about additional monitoring.

A: The first meeting about the data was held this morning. We have just started looking at the data. There are over 200,000 data points. We will ask the consultant group when they will be ready to make a report to this committee. The analysis of that data will be a part of the discussion with this group going forward.

Q: Will the Construction Permit appeal have an impact on the ISWGP?

A: It could have some impact but is not likely to address any core issues.

Q: Is there a schedule of events for this committee?

A: *(Jim LaSpina distributed copies of the committee schedule. It was noted that the 11/07 draft date indicated on the schedule is the earliest possible, given accommodation of all of the notification and public comment periods, and that event may actually occur later.)*

- C: The schedule and today's agenda focus on committee member feedback to Ecology. But we are interested in feedback from Ecology about what is working and not working in this permit.
- A: Agree that this should happen. A meeting between this one and the one in September will be scheduled to go over data findings with this committee.

INVENTORY OF ISSUES

A list of specific permit issues Advisory Committee members want to address was created:

Committee member inventory of questions and areas of concern about the permit:

Sampling:

- C: Interest in having more, and more representative sampling.
- C: More clarity is needed on representative sampling. A clear definition/meaning is needed.
- C: More guidance is needed for the permitted community in general, but especially with regard to sampling.

Benchmarks:

- C: Would prefer to have enforceable effluent limitations.
- C: Data shows exceedences, although this may vary year to year. If further analysis bears out the exceedences, how will that be addressed?
- C: Would like to have benchmarks be industry-specific, especially for turbidity and BOD, e.g. wood products industry conveyance into small receiving water bodies.
- C: Need to know if the benchmarking approach is working, and whether it could work better. More information is needed e.g. on the number of mixing zone requests, how many are doing sampling, etc.
- C: Would be interested to know how the benchmark numbers were arrived at, and what they were based on.
- C: Questions as to whether the health indicators for streams are the right ones. For instance, questions about use of turbidity as an indicator under all circumstances.

Mixing zones

- C: Concern about to what degree mixing zones will be included in the general permit.
- C: Interested in any provisions being considered for expanded mixing zones.
- C: Should mixing zones be automatic?
- C: Concerned about the wording re mixing zones, and how volumes are determined.

Bringing in facilities that should be included

- C: How will this occur?

Use-ability/ Understandability/ Certainty

- C: How to know when requirements are met.

Preventive measures

- C: Would like preventative measures e.g. visual monitoring to be included in the permit, especially for sites in eastern Washington.

BMPs

- C: BMPs should be more "user-friendly", especially with regards to being clear about what is expected.
- C: Examples of "what works" should be included or otherwise available.
- C: There is a high level of ambiguity on the implementation of BMPs. The BMP is objective, but inspector assessments are subjective. A BMP may "look good" but may not perform well. Conversely, a BMP may not look good but may perform well.
- C: What is the means/criteria by which it is determined whether AKART has been applied/achieved?

Inspection and Technical Assistance

- C: Permittees need more technical assistance.
- C: More inspectors/ staff are needed in light of growing numbers of covered facilities, permits, and growing complexity.
- C: Permittees need a means to share corrective approaches.

Zinc

- C: What is allowable with regard to zinc? What can be done, and what can't?

Eastside / Westside differences

- C: The permit should make more discernment between E/W sides.

Monitoring

- C: Are the pollutants to be monitored in 303(d)-listed water bodies the right ones?
- C: Is the suspension of monitoring the right thing to do?
- C: The monitoring requirements are not pollutant-specific. Information from data sets is needed to address this issue.
- C: Regarding monitoring without a qualifying storm event, what documentation is required?
- C: Definitions of "qualifying event", and "during business hours" is problematic". Can it be clarified or revised?

Treatment methods

- C: Need to create incentive mechanisms for innovative treatment methods. "Take the fear out of trying something new."
- C: Treatment options are not the "solution pill" for BMPs.

Electronic DMRs .

- C: This is a good and helpful feature.

Section SIC5.

- C: If this is covered under ISWP, the CSWP could be bypassed (relative to under 5 acre sites only).

Corrective reports

- C: It is unclear what these reports are used for. It creates uncertainty at facilities.

Adaptive Management / Response levels

- C: The action required at each level needs to be clearer to permittees and interested parties.
- C: How is waiver eligibility determined? Is it supported by the data?

Definitions

- C: How is "edge" defined? It should be industry specific.

In response to some of the issues raised in creating the above list, Ecology Inspectors attending the meeting noted the following:

- Information from Level One and Two permittees has just begun coming in to Ecology, starting December 1st. Ecology doesn't have a large pool of data at this point, and will share the data as it is received.
- Regarding the need for a definition of "representative sample", stormwater has great variation and is difficult to predict. For this reason it is difficult to be highly specific in the general permit.

DISCUSSION OF SPECIFIC ISSUES

Nancy Winters noted that some of the issues identified pertain to implementation, and will be addressed in another venue. She suggested that the most valuable areas to explore in more depth today include benchmarks, mixing zones, 303(d) monitoring, adaptive management, sampling, BMPs, and Eastside/Westside issues.

Benchmarks

It was noted that data on benchmarking is just emerging, so there may be many open questions at this point.

- C: Knowing that the ESSB 6415 legislation supports the benchmarking approach, we are interested in 402p of the Water Quality Act. Water quality needs to meet standards especially on toxics. 402p compliance does not seem achievable with benchmarks. Would prefer use of an effluent standard.
- C: Would be interested in knowing, once the data is developed, whether Ecology thinks there is the potential to violate the water quality standards, and if so, whether Ecology believes an effluent standard should be set.
- C: EPA, in processing a multi-sector general permit, pegged additional BMPs to a quarterly sample of a set of data. Point this out because it would be “clean” to be able to look at one data value to tell if the BMP is good enough. Since one data point would not be enough, Ecology could consider using a set of data.
- C: Benchmarks have enough simplicity to work for small business, as currently structured.

Mixing Zones

Committee members were asked to expand on their perceptions and concerns relative to mixing zones.

- C: Concerned about inclusion of mixing zones. Would not support that as an approach.
- A: As of now, there have been no requests for mixing zones, and none are in use.
- C: Mixing zones shouldn't be completely eliminated as an option. There might be an instance where a permittee would go for an individual permit, or they could apply because in a specific situation they are an appropriate solution.
- C: There will be instances when all BMPs are in place and AKART is met, but water quality criteria is still violated. Clarity is needed as to the criteria to get a mixing zone.
- C: Since this is a small percentage of instances, it is best done via an individual permit.
- C: Interested in feedback as to how many permittees should have mixing zones.
- C: There is a prohibition for city storm sewers that should be eliminated due to ground water flows.

303(d) Monitoring

Committee members were asked to identify the parameters they view as correct.

- C: Need more clarity on monitoring for phosphorous.
- C: If a stream is listed for e-coli provision, there should be an opt out for that parameter.
- C: With fecal coliform bacteria monitoring, for example, the term “significant contributor” is not defined clearly enough.
- C: Also need a clearer definition for when fecal coliform bacteria is from non-human sources.
- C: This is sufficiently addressed already in the permit.

Q: How can a permittee define that they are not a source?

C: Process of elimination, by examining potential sources.

C: Also, cross-connections may have to be solved.

Q: What coliforms apply?

A: All.

Adaptive Management

It was noted that Ecology agrees that the levels are too complicated. Committee members were asked for their ideas for streamlining.

C: The levels contribute too much complexity. Looking at a single number is not representative of industrial plant operations. Looking at a rolling average of four would be a better means of illustrating trends.

C: The adaptive management process of looking at a value and reporting in Level One works. But Levels Two and Three over-reach, e.g. "all available options of sources control". Responding to all of the questions is overwhelming. We need to hear from inspectors about the expectation for appropriate Level Two response.

A: It is facility-specific. The important questions to answer are "What's wrong", and "What is the solution?"

A: We don't fully know the answer, as we are just starting to address this now. It is set up as a self-reflective process. Inspectors are reluctant to be prescriptive in the field. We are unable to prescribe a specific technology.

A: The goal is to get to the purpose of the permit, which is adaptive management.

Q: Viewed from a compliance standpoint, how can you tell if "all " has been done?

A: From the standpoint of the inspectors, we look for due diligence on subsequent visits.

C: But it is difficult to tell the status when doing a file review.

C: At a county level this is an issue also. Operational source control methods are recommended before treatment options.

C: One can empathize with the permittees, but what if impairments continue? What is the end point? The permit is not clear on the end point.

Sampling

It was noted that in the previous discussion, the need for further definition of "representative", "qualifying event" and "proof" had already been identified. Committee members were asked to identify any other issues relative to sampling.

C: At some point, effluent limits should be considered, and whether we should sample for more site-specific factors.

Q: Would like more information about how to analyze for metals, e.g. total metals versus dissolved metals?

C: The Goal Book provides some guidance on this issue.

C: Why is there focus on the hardness of the stormwater discharge? The focus should be on the receiving water.

- Q: Is the end result supposed to be collection of the “first flush”, or just an instant in time? The permit is so specific now you end up with a non-qualifying event if, for example, you don’t get up at 4 o’clock in the morning to collect. Clarification is needed on how quickly a sample must be collected, and the exact measurement of rain.
- C: Note that Oregon law is less specific. It states “within a reasonable amount of time.”
- Q: But would the sample change over time?
- C: The degree of change is different for different constituents.
- C: The time boundary for taking samples needs to strike a balance between reasonableness for industry and acceptability for data purposes.
- C: Original sampling regulations were very difficult for small businesses, presenting a “Catch 22” situation. The approach of making a best effort to sample early in the event, with the goal of doing it within the first hour, is workable.
- C: Agree that in the current permit, the wording works well, including the “sampling at the discharge point with most pollutants”. and “goal of first hour, then best effort as soon as possible.”
- C: The real issue may be the need for training for those responsible for doing sampling in the field.

BMPs

Committee members were asked for suggestions on how to address the ambiguity (“a BMP that looks good but doesn’t perform well”) addressed in the previous discussion.

- C: (Ecology inspector) Problems include source control not being handled well, and employees not trained about the SWPPP.
- C: Agree that problems may not be the fault of the BMP, but of the operator.
- C: We have been working on implementing the right set of BMPs. The problem arises when you have the right set in place but there are questions about whether they are large scale enough or often enough. There is no standard about what is “enough”, and uncertainty about what the permit is asking for.
- C: In some cases managers need motivation, but in other cases everything possible short of treatment has been implemented, and still the standard has not been met. So, in cases where the problem is not motivation, it is hard to know what to do next. The zinc number is a good example. An end point, short of treatment, is needed.

East and West Issues

Committee members were asked for suggestions on how to deal with differences between east and west sides, short of separate permits.

- C: This issue is not just related to differences between eastern and western Washington. Benchmarks or action levels tailored more closely to regional water quality may be needed. California water quality standards are not helpful.
- C: On page 49, it is not clear about referring to approved manuals. Might want to repeat the language contained on page 44 on page 49, and also in the section on treatment and flow control.

Other Issues

Non-permitted sites

- C: More could be done for water quality through bringing un-permitted processes into the permit process.
- C: Agree. Under Snohomish County's Phase One permit we will be required to visit those sites, and as we do we will bring them to the attention of Ecology.
- C: Industry could support an increase in fees to increase technical support, as opposed to more inspectors. Many smaller organizations have no in-house technical knowledge.
- C: (Ecology) There are 16,000 entities with SIC codes that might require permits. However there are now 93 "no exposure" permits and 1200 general permits.
- C: (Ecology inspector) We are under a legislative mandate to visit all with permits by 2007. There are no resources to visit the other 15,000.

- C: Ecology is the most effective resource. The Ports would welcome Ecology support.

- C: There may be more that don't show up among the SIC codes used. An example is gas stations.

- C: When the permit was revised there was a mixed message on the "no exposure" permit.

- C: We did send out the "purple book" to 150 facilities in Whatcom County, and received zero responses. So just sending materials will not work.

- Q: How many FTE does Ecology have in the field?
- A: 12.5 came with the legislation for both the construction and industrial stormwater permits, but some are at headquarters. It isn't enough.

- C: If a SWPPP is requested, it takes away from inspectors' time. Thought should be given to some form of compensation for those requests.

Permit Form and Format

- C: The permit is very complex, but is targeted for a general permit audience. It is too "busy". Use the Pareto Principle as a means of simplifying. Reduce the complexity of the permit to focus on areas of most importance. *(Note: A paper was submitted with a list of areas suggested for simplification.)*

- C: An abbreviated list of action items is needed.

Other

- C: Clarify "significant contributor".

- C: Regarding UIC Program compliance, make sure that all "discharge to ground" have a UIC Program reference.

- Q: (Inspector) Regarding sampling and benchmarks, what alternatives to benchmarks do you envision, as a means of determining when BMPs are working?
- A: There may be some requirements for individual permits and/or effluent limits.

C: This is a good permit. It balances issues in a delicate way. But, acknowledging that it is hard to draw bright lines, facilities managers just want to know “what do I have to do?”

Q: (Inspector) Was the committee member that commented on the electronic DMR’s also suggesting that as a method for permittees to get information back from Ecology? If so, that could be problematic.

A: (Facilitator) *{The committee member making the comment was no longer present}* The notes from those comments indicate interest in continuing the electronic process for submitting DMRs only. Using that format as a feedback loop wasn’t addressed in the comment.

C: It would be helpful to have an annual workshop for permittees on “what works”.

SESSION CLOSING

Jim LaSpina thanked members for attending and participating, He made the following additional points at closing:

- Implementation issues were not discussed today, but Ecology has heard them and will work on them.
- Based on the input today it is clear that members are interested in getting together to look at the collected data that provides information about what we are seeing “on the ground”. We will find out when the contractors will be ready to do a presentation to this group. It will need to be held before the meeting in September, but the scheduling is likely to be difficult. A list of potential dates will be circulated soon.

The meeting adjourned at 4:45 pm.

Respectfully submitted,
Sue Dicile, meeting facilitator

Materials distributed at the meeting:

- Committee roster.
- Industrial Stormwater General Permit History.
- Issues for Consideration / Industrial Stormwater General Permit Renewal *(submitted by Ken Johnson to Ecology with copies to Committee members)*
- Session Working Agreements.